

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

AUG 17 2004

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER H. MARKUSCH and RALF GUETHER

Appeal No. 2004-1539
Application No. 09/808,812

ORDER REMANDING TO EXAMINER

On August 26, 2003, the examiner mailed an examiner's answer. There is no clear indication that an appeal conference was held because the examiner's answer contains only the typed initial and name of the conferees (i.e., mdb and James Seidleck). No signature or initialing by the conferees is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

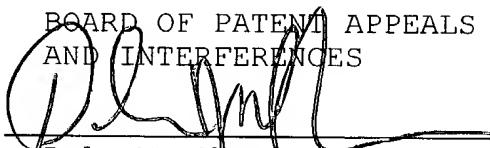
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Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) proper indication that an appeal conference was held; and 2) notifying the appellants, in writing, that the appeal conference was held; and 3) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES
By: 
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